

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

KAREN G. NICOLAOU,
in her capacity as TRUSTEE for the
SOLA DISTRIBUTION TRUST

CIVIL ACTION NO. 07-2145

-vs-

JUDGE DRELL

GORDON D. RICE, et al.

MAGISTRATE JUDGE KIRK

ORDER

After reviewing the record and the information presented during a status conference held this date, it is clear to the Court that only the claims against Patti Rice, Gordon D. Rice, and Majestic Offshore, Inc. in this adversary action have been amicably resolved. Plaintiff's claims against Phil Camel are still outstanding, and that defendant has requested a jury trial. (Document No. 32.) The Court has no information the remaining defendant has consented to trial by jury in the Bankruptcy Court, and the Bankruptcy Court cannot try cases before a jury absent consent of the parties. 28 U.S.C. § 157(e); In re Clay, 35 F.3d 190, 191, 197-98 (5th Cir. 1994). Therefore, Defendant is entitled to withdrawal of the reference as to the ultimate trial, and this Court's Order revoking withdrawal of the reference (Document No. 38) should be vacated. The Bankruptcy Court may continue to manage most pretrial matters, fulfilling essentially the same role as a Magistrate Judge would in any other civil case. This Court, however, desires

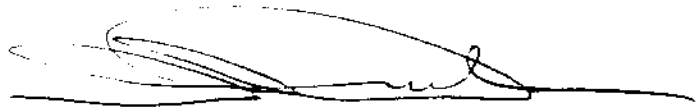
to hold the pretrial conference and to hear any motion in limine and/or Daubert motion that may arise. Accordingly,

IT IS ORDERED that the "Motion for Reconsideration" (Document No. 39) is GRANTED, the Order dated July 24, 2008 (Document No. 38) is VACATED, and the provisions of the Order dated June 19, 2008 (Document No. 28) withdrawing the reference to the extent necessary for this Court to try the case before a jury are REINSTATED. The Clerk of Court is instructed to disseminate this Court's Civil Case Management Order Nos. 1 and 2.

IT IS FURTHER ORDERED that Plaintiff's claims against Patti Rice, Gordon D. Rice, and Majestic Offshore, Inc. are DISMISSED, pending settlement approval in the Bankruptcy Court, without prejudice to the right, upon good cause shown within ninety (90) days of the signing of this Order, to reopen the action if settlement is not consummated.

IT IS FURTHER ORDERED that the settling parties submit to the Court, in accordance with Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, a stipulation of dismissal signed by all applicable parties, together with a judgment for execution by the Court.

SIGNED on this 10 day of December, 2008, at Alexandria, Louisiana.

A handwritten signature in black ink, appearing to read "Dee D. Drell", is written over a horizontal line.

DEE D. DRELL
UNITED STATES DISTRICT JUDGE